

Attorney Docket # 5029-39RCE

9200

Patent

#10/dipm  
5-7-03  
Ref re  
Aband.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Martin ESSING

Serial No.: 09/843,348

Filed: April 26, 2001

For: Ventilation Device for a Fuel Tank

Examiner: Castellano, S.  
Group Art: 3727

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on

January 8, 2003

(Date of Deposit)

Alfred W. Froeblich

Name of applicant, assignee or Registered Representative

*Alfred W. Froeblich*

Signature

January 8, 2003

Date of Signature

Assistant Commissioner for Patents  
Washington, DC 20231  
BOX DAC

PETITION TO WITHDRAW HOLDING OF ABANDONMENT  
UNDER 37 C.F.R. 1.181(a)

S I R:

By this Petition, applicants requests withdrawal of the holding of abandonment set forth in the Notice of Abandonment mailed December 16, 2002 in connection with the above-identified application. Any fees or charges required in connection with this Petition may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Applicant's undersigned representative has received from the Patent and Trademark Office the above-mentioned Notice of Abandonment, mailed December 16, 2002,

reciting that the subject application is abandoned due to Applicants' alleged failure to file a proper reply in reply to the Office Letter mailed January 31, 2002.

In reality, and as set forth in the annexed Declaration of Alfred W. Froebrich, a proper reply to the Office Action of January 31, 2002 -- namely, a "Request for Continued Examination" -- was timely filed in the Patent Office by First Class Mail, accompanied by a Certificate of Mailing, on April 26, 2002. A copy of that Request for Continued Examination, as filed on April 26, 2002, is attached to the annexed Declaration of Alfred W. Froebrich.

Also accompanying the Request for Continued Examination, as mailed to the Patent and Trademark Office on April 26, 2002, was a return receipt postcard which was to be stamped by Patent Office Mail Room and then returned to Applicant's attorneys. That postcard was received back by applicant's attorneys from the Patent and Trademark Office, indicating that the timely Request for Continued Examination was received at the Patent and Trademark Office on May 6, 2002. A copy of that receipted postcard is attached to the annexed Declaration of Alfred W. Froebrich.

It accordingly appears that the Request for Continued Examination has likely been lost or misdirected within the Patent and Trademark Office.

Inasmuch as Applicant did in fact file a timely and complete response to the Office Action of January 31, 2002, as evidenced by the annexed Declaration of Alfred W. Froebrich and the attachments thereto, it is respectfully requested that the holding of abandonment of the instant application be withdrawn and that the case be restored to active, pending status. It is further requested that, upon restoration of the case to active, pending status, the Examiner duly consider

the substance of the Amendment submitted on March 26, 2002, and thereby continue prosecution of the instant application.

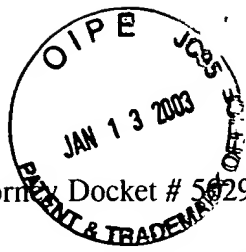
Respectfully submitted,  
COHEN, PONTANI, LIEBERMAN & PAVANE

By Alfred W. Froebrich  
Alfred W. Froebrich  
Reg. No. 38,887  
551 Fifth Avenue, Suite 1210  
New York, New York 10176  
Tel. (212) 687-2770

Dated: January 8, 2003

Attorney Docket # 5629-39RCE

Patent



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Martin ESSING

Serial No.: 09/843,348

Filed: April 26, 2001

For: Ventilation Device for a Fuel Tank

Examiner: Castellano, S.

Group Art: 3727

DECLARATION OF ALFRED W. FROEBRICH

Assistant Commissioner for Patents  
Washington, D.C. 20231

S I R:

I, Alfred W. Froebrich, hereby declare and state that:

1. I am one of the attorneys-of-record in connection with the above-identified application. I am registered to practice before the Patent and Trademark Office under Registration No. 38,887.

2. On December 20, 2002, I received a "Notice of Abandonment", mailed from the Patent and Trademark Office, reciting that the subject application has been abandoned in view of applicant's alleged failure to provide a proper reply to the Office Action mailed January 31, 2002. A true copy of that Notice of Abandonment is attached hereto.

3. In actuality, applicants suitably responded to the Office Action of January 31, 2002 by the filing of a "Request for Continued Examination" (RCE) which contained a complete

response to the Office Action. A true copy of that RCE, as mailed to the Patent and Trademark Office, is also attached hereto.

4. The filing of said RCE was carefully recorded on the jacket cover of the application file cover, a copy of said jacket cover is attached hereto, as well as docketed in our computerized docketing system. Said docketing is duly evidenced by the enclosed status report as printed from said docketing system.

5. The RCE was mailed to the Patent and Trademark Office on April 26, 2002 and was accompanied by a Certificate of Mailing which was, as seen on the attached copy of the RCE, printed directly thereon. Both the RCE and the Certificate of Mailing which appears thereon were signed on April 26, 2002. Moreover the RCE was in fact deposited with the United States Postal Service on April 26, 2002, as indicated in the Certificate of Mailing.

6. The RCE, as mailed to the Patent and Trademark Office on April 26, 2002, was also accompanied by a check in the amount of \$740 for the filing fee and a return receipt postcard which was datestamped on May 6, 2002 as received by the Patent Office Mail Room and then returned to applicant's undersigned attorneys as proof of the Patent Office's receipt of the accompanying documents. A copy of the check and the datestamped return receipt postcard is also attached hereto.

7. As should be apparent from the facts and circumstances related in this Declaration, no abandonment of the subject application was intended. Indeed, applicant's filing on April 26, 2002 of a RCE in complete response to the Office Action of January 31, 2002 evidences the intention to proceed with and maintain the pendency of the application. Accordingly, the subject

application should not have been held abandoned, and that holding must properly be withdrawn.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 8<sup>th</sup> day of January, 2003

Alfred W. Froebrich  
Alfred W. Froebrich



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/843,348	04/26/2001	Martin Essing	5029-39 <i>RCE</i>	8539/

7590 12/16/2002

Thomas C. Pontani, Esq.  
Cohen, Pontani, Lieberman & Pavane  
Suite 1210  
551 Fifth Avenue  
New York, NY 10176

EXAMINER

CASTELLANO, STEPHEN J

**DOCKETED**

EV

ART UNIT

PAPER NUMBER

.3727

DATE MAILED: 12/16/2002

*16 Jan 2003*  
*Pet*

Please find below and/or attached an Office communication concerning this application or proceeding.

*P04572080*



# **Notice of Abandonment**

Application No.

09/843,348

Examiner

Stephen J. Castellano

Applicant(s)

ESSING, MARTIN

Art Unit

3727


-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 31 January 2002.
  - (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☒ A proposed reply was received on 4/176/02, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.

(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b) ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.

The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

  
Stephen J. Castellano  
Primary Examiner  
Art Unit: 3727

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



5029-39RCE

AWF/EM

April 26, 2002

In re RCE (req. for Cont. Examination) Application of  
Martin ESSING

Parent Serial No.: 09/843,348

Parent Filed: April 26, 2001

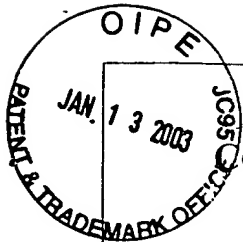
For: Ventilation Device for a Fuel Tank

• By First Class Mail with the following enclosures:

1. RCE Transmittal (2x)
2. Fee Authorization (2x)
3. Fee Calculation Sheet
4. Check for \$740 filing fee
5. Return Receipt Postcard



KINDLY DATE STAMP AND RETURN  
TO ACKNOWLEDGE RECEIPT



<b>REQUEST FOR CONTINUED EXAMINATION (RCE) TRANSMITTAL</b>	
<small>Subsection (b) of 35 USC §132, effective on May 29, 2000, provides for continued examination of an utility or plant application filed on or after June 8, 1995. See The American Inventors Protection Act of 1999 (AIPA).</small>	

Application Number	09/843,348
Filing Date	April 26, 2001
First Named Inventor	Martin ESSING
Group Art Unit	3727
Examiner Name	Castellano, S.
Attorney Docket Number	5029-39RCE

This is a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114 of the above-identified application.  
Note: 37 C.F.R. § 1.114 is effective on May 29, 2000. If the above-identified application was filed prior to May 29, 2000 applicant may wish to consider filing a continued prosecution application (CPA) under 37 C.F.R. § 1.53(d) (PTO/SB/29) instead of a RCE to be eligible for the patent term adjustment provisions of the AIPA. See Changes to Application Examination and Provisional Application Practice, Interim Rule, 65 Fed. Reg. 14865 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47 (April 11, 2000), which established RCE practice.

1. **Submission required under 37 C.F.R. § 1.114**

- a. ☒ Previously submitted
- i. ☒ Consider the amendment(s)/reply under 37 C.F.R. § 1.116 previously filed on March 26, 2002. (Any unentered amendment(s) referred to above will be entered).
- ii. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on
- iii. ☐ Other
- b. ☐ Enclosed
- i. ☐ Amendment/Reply
- ii. ☐ Affidavit(s)/Declaration(s)
- iii. ☐ Information Disclosure Statement (IDS)
- iv. ☐ Other

2. **Miscellaneous**

- a. ☐ Suspension of action of the above-identified application is requested under 37 C.F.R. § 1.103(c) for a period of months. (Period of suspension shall not exceed three months; Fee under 37 C.F.R. § 1.17(I) required)
- b. ☐ Other

3. **Fees**

The RCE fee under 37 C.F.R. 1.17(e) is required by 37 C.F.R. 1.114 when the RCE is filed.

- a. ☒ The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No.: 03-2412.
- i. ☒ RCE fee required under 37 C.F.R. § 1.17(e)
- ii. ☐ Extension of time fee (37 C.F.R. §§ 1.136 and 1.17)
- iii. ☐ Small Entity Status is being claimed for this application.
- vi. ☐ Other
- b. ☒ Check in the amount of \$740.00 enclosed.
- c. ☐ Payment by credit card (Form PTO-2038 enclosed)

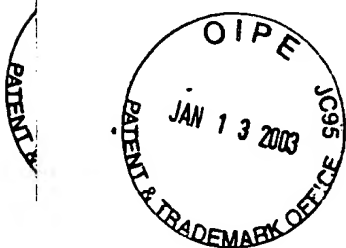
**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED**

Name (Print/Type)	Alfred W. Froebrich	Registration No. (Attorney/Agent)	38,887
Signature	<i>Alfred W. Froebrich</i>	Date	April 26, 2002

**CERTIFICATE OF MAILING OR TRANSMISSION**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner For Patents, Box RCE, Washington, DC 20231, or facsimile transmitted to the U.S. Patent and Trademark Office on: April 26, 2002

Name (Print/Type)	Alfred W. Froebrich	Date	April 26, 2002
Signature	<i>Alfred W. Froebrich</i>		



Attorney Docket No.: 5029-39RCERCE

## FILING FEE COMPUTATION SHEET

*Submit an original and a duplicate for fee processing*

Assistant Commissioner for Patents  
BOX PATENT APPLICATION  
Washington, DC 20231

Dated: April 26, 2002

In re RCE Application of: **Martin ESSING**  
For: **Ventilation Device for a Fuel Tank**  
Parent Serial No.: **09/843,348**

The filing fee has been calculated as shown below:

FOR:	Col. 1	Col. 2	SMALL ENTITY	OTHER THAN SMALL ENTITY
	# FILED	# EXTRA		
BASIC FEE			\$370	\$740
TOTAL CLAIMS	<u>7</u> - 20 =	<u>0</u>	x 9 = \$	x 18 = \$
INDEPENDENT CLAIMS	<u>1</u> - 3 =		x 42 = \$	x 84 = \$
<input type="checkbox"/> MULTIPLE DEPENDENCY			+\$140 = \$	+ 280 \$
* If the difference in Col. 1 is less than zero, enter "0" in Col. 2			TOTAL: \$	\$740

# COHEN, PONTAN, LIEBERMAN & PAVANE

551 FIFTH AVENUE

NEW YORK, N.Y. 10176

## PATENT APPLICATION RECORD

TITLE Ventilation Device for a Fuel Tank  
 PRIORITY Germany - 10020296.9.0 - Apr 26, 00

CERT. COPY FILED

PATENTED	NUMBER
ALLOWED	ISSUE FEE PAID

## ASSIGNMENT

ASSIGNEE Mannesmann VDO  
 DATE \_\_\_\_\_ SENT FOR RECORDING \_\_\_\_\_  
 RECORDED \_\_\_\_\_ REEL \_\_\_\_\_ FRAME \_\_\_\_\_

### ACTIONS

<del>FMP</del>	<del>June 16, 2001</del>
Filing Receipt rec'd	June 27, 2001
Filing Receipt	July 20, 2001
1st OA.	Sept 17, 2001
FDA	Jan 31, 2002
Notice of Abandon.	Dec. 16, 2002
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### AMENDMENTS

Executed Appl. <sup>PC</sup>	8/15/2001
IDS	8/15/2001
Amendment	12/1/2001
Amendment	3/26/2002
KCE filed	4/26/2002
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## COMMENTS

\_\_\_\_\_  
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All correspondence with:  
 Siemens AG  
 Postfach 22 16 34  
 80506 München, Germany

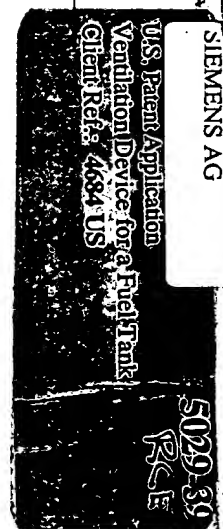
PO4572080

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NTOR MESSING

SER. NO. 7843,348 FIL. DATE 4/26/01 DOCKETED

NO.



OPER SMC ENTERED 3/12/2001 MAILED 1/8/2003 ATTORNEYS TCP / AWF / PRINTED ON: 1/8/2003

COHEN# 5029-39RCE CNTRY US UNITED STATES NEW/CON NEW RELATED

PATS# P04572US0 TYPE UTL SERIAL# 09/843,348 PATENT# STAT PENDING

TITLE VENTILATION DEVICE FOR A FUEL TANK ART# 370

CLIENT 5029 MANNESMANN VDO AG 1 CREF 4684 US SE LOC 3727

AGENT AREF DE10020296.9 CLAIMS EFS 8539

PRIOR 4/26/2000 MAIL 4/26/2001 FILE 4/26/2001 PUBL ISSUE EXP 4/26/2021 1ST 4/26/2001

ID	O	ACTION	BASE	DUE IN	DUE	EXTNS	FINAL	EXT	RESPONSE	CALL	1	2	P
	Y	PRIORITY DOC FILED	4/26/2001										
DL	N	PRIORITY DEADLINE	4/26/2000	12 M	4/26/2001		4/26/2001	0	4/26/2001	1 M	Y	Y	N
DD	N	FILE DECL	4/26/2001	2 M	6/26/2001	4 1	10/26/2001	0	4/26/2001	10 D	Y	Y	N
DS	N	INF DISCLOSURE STMT	4/26/2001	3 M	7/26/2001	3 1	10/26/2001	1	8/15/2001	1 M	Y	Y	N
FS	N	FILG RCPT STATUS CHK	4/26/2001	3 M	7/26/2001	3 1	10/26/2001	0	6/27/2001	0 M	N	N	Y
OA	N	MAIL O.A. TO CLIENT	9/17/2001	21 D	10/8/2001	0 0	10/8/2001	0	9/27/2001	0 D	Y	Y	N
AF	N	RECORDED ASSIGN RECD	4/26/2001	6 M	10/26/2001	3 1	1/26/2002	0	7/27/2001	1 D	N	N	Y
RECORDATION DATE: 04/26/01 REEL/FRAME: 011771/0980													
RE	N	RESPONSE TO OA	9/17/2001	3 M	12/17/2001	3 1	3/17/2002	1	12/17/2001	1 M	Y	Y	N
PC=1/23/02													
OA	Y	MAIL O.A. TO CLIENT	2/21/2002										
O.A. NEVER MAILED													
	Y	ADVISORY ACTION MLD	4/17/2002										
	Y	RCE REQUEST FILED	4/26/2002										
PC REC'D 05/06/02													
FR	N	FINAL REJECTION	1/31/2002	3 M	4/30/2002	3 1	7/31/2002	0	3/26/2002	1 M	Y	Y	N
PC REC'D 04/04/02													
	Y	PREMATURE NOT/ABAND	12/16/2002										
	N	PETIT N/ABAND	12/16/2002	1 M	1/16/2003		1/16/2003	0		2 D	Y	Y	N
S8	N	RCE STATUS CHECK	4/26/2002	12 M	4/26/2003	5 1	9/26/2003	0		0 D	Y	Y	N
CALL PTO AT THIS TIME TO FOLLOW UP--MUST CALL--PER AWF INQUIRY OF 11/1/02 REQUEST WAS RECEIVED BUT THEY HAVE NOT GOTTEN TO IT YET--AWF REMINDER 12/20/02 VIA PHONE--REC'D NOT OF ABAND MLD 12/16/02													

#### INVENTORS

Essing, Martin

#### ASSIGNEES

MANNESMANN VDO AG



Creation date: 03-09-2004  
Indexing Officer: SCHANTHAVONG - SOURICHANH CHANTHAVONG  
Team: OIPEBackFileIndexing  
Dossier: 09843348

Legal Date: 05-07-2003

No.	Doccode	Number of pages
1	PETDEC	1

Total number of pages: 1

Remarks:

Order of re-scan issued on .....